IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

FIRST APPEAL NO. 1368 OF 2003

Shri Avinash Rajaram Jadhav & ors. ... Appellants

V/s

Shri Pratap Sitaram Jadhav & ors. ... Respondents

Shri P.D. Dalvi for the appellants.

CORAM: P.V. KAKADE, J.

DATED: 21ST OCT., 2004.

P.C.:

1. Heard learned counsel for the appellants.

2. Rule. Rule made returnable forthwith.

3. This is an appeal preferred against the order passed by the Joint Charity Commissioner, Kolhapur Region, Kolhapur, dated 19.12.2002 in Application No. 61 of 2001 under Sec. 47 of the Bombay Public Trust Act for appointment of new Trustees including the applicant-appellants relating to the impugned Trust - Hind Education Society, Miraj, which runs five high schools and one primary school.

There were some disputes amongst the Trustees and, therefore, Ad-hoc Committee consisting of three persons was appointed by the Joint Charity Commissioner, Pune, under Sec.41 of the B.P.T. Act and it was made to look after the affairs of the Trust till the decision of the Scheme application Nos. 312/98, 313/98 and 460/98 which were pending before the learned Asstt. Charity Commissioner, Sangli. However, the interim stay is granted by the High Court in Writ Petition No. 4934 of 2001 to the appointment of 5th Ad-hoc Committee on 12.9.2001. So, in the light of the said position, there was no body in existence to look after the management and affairs of the Trust. In the meantime, the Scheme application was decided by the Assistant Charity Commissioner whereunder the Board of Trustees was consisting of 11 members was appointed. It was challenged again by Misc. Application No. 105 of 1998 before the District Court, Sangli in which both the Schemes were set aside and remanded back to the Asstt. Charity Commissioner, Sangli for deciding it afresh. Finally, after much litigation, the application was made under Sec. 47 of the B.P.T. Act to appoint any person interested in a public Trust may apply to the Charity Commissioner for appointment of new trustee where there is no trustee looking after the affairs of the Trust.

4. The learned Joint Charity Commissioner considered all aspects and passed the impugned order appointing two persons to look after the management and administration of the said Trust, namely, one Shri Pratap S. Jadhav and Smt. Mangala Hindurao Salunkhe. Both Trustees were directed not to take any policy decisions regarding appointments, transfer of teaching and non-teaching staff and funds of the trust, without prior written permission of the Asstt. Charity Commissioner, Sangli.

5. This is the direction which is impugned in this appeal. If we peruse the judgment and reasoning of the Joint Charity Commissioner in issuing said directions to the newly appointed persons, it is seen that it is issued with a view to protect the affairs of the Trust keeping in mind the paramount consideration being protection of the Trust. Under the circumstances, I do not see any reason why the appeal should be admitted as the conditions imposed upon the said newly appointed persons appears to be reasonable in order to ensure smooth functioning of the Trust.

In the result, the appeal stands dismissed in limine with no order as to costs.

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